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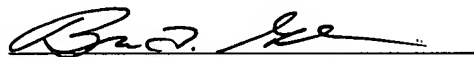
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application Serial No: 10/017,445 Confirmation No.: 6377  
Date Filed: December 14, 2001  
Application Title: Methods For Determining Organisms Not Requiring The  
Separation Of Fixative Or Excess Probe  
Applicants: Rigby et al.  
Group Art Unit: 1634  
Examiner: Sally A. Sakelaris  
Action Date: March 25, 2003  
Action Type: First Office Action On Merits – Non-FINAL  
Certified Mail No: 7003 0500 0000 1731 7017

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**Certificate of Mailing Pursuant to:  
37 C.F.R. §1.8**

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to: Mail Stop Patent Application, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 23<sup>rd</sup> day of July, 2003.

  
Brian D. Gildea  
Reg. No. 39,995

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**Reply To Office Action**

Commissioner for Patents

Dear Sir or Madam:

A petition under 37 C.F.R. § 1.136(a) for an automatic one-month extension of time to reply to the present office action has been included with the papers accompanying this submission so please consider the following response to the Office Action mailed on March 25, 2003.

### I. ACTION SUMMARY

Claims 1-21 stand pending in the application. Claims 1, 2, 3, 4, 9, 10, 11, 12, 14, 16 and 18 stand rejected under 35 U.S.C. §102(b), second paragraph as being anticipated by Yurov et al. (Human Genetics (1996)). Claims 2 and 5 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Yurov et al. (Human Genetics (1996)) in view of Drobnowski et al. (Journal of Clinical Microbiology, Jan. 2000). Claims 6 and 7 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Yurov et al. (Human Genetics (1996)) in view of Braissant et al. (Biochemica, 1998). Claims 2, 4, 8 and 21 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Yurov et al. (Human Genetics (1996)) in view of Bresser et al. (US 5,225,326). Claims 13, 19 and 20 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Yurov et al. (Human Genetics (1996)) in view of Ortiz et al. (Molecular and Cellular Probes, 1998). Claim 15 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Yurov et al. (Human Genetics (1996)) in view of Iris et al. (US 6,403,309). Claims 11, 12 and 17 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Yurov et al. (Human Genetics (1996)) in view of Hyldig-Nielsen (US 2001/0010910). Claims 3 and 21 stand rejected under 35 U.S.C. §112, second paragraph as being indefinite. No claim stands allowed.

### II. FORMAL MATTERS

The Examiner is thank for her return of the PTO-Form 1449 for the documents submitted on March 14, 2002 and March 10, 2003.